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commenters reflect a broad cross-section of representatives of the common carrier and private carrier paging industries including large carriers, smaller carriers, publicly traded companies, privately held companies, and industry associations. Significantly, the commenting parties are unanimous in their support for the deletion of Section 22.119 of the Commission's rules to permit the concurrent use of transmitters in common carrier and non-common carrier services. Viewed as a whole, the comments provide overwhelming record support for the proposed action and provide ample justification for the Commission to move promptly to implement the proposed change.

2. The diverse commenters also appear to speak with one voice in concluding that Section 22.119 should be completely eliminated. No support can be found in the record for providing relief from the rule section only to carriers in certain circumstances.^{2/} In view of this overwhelming consensus by interested parties, the Commission

^{1/}(...continued)

Educational Radio, Inc.; Comments of PageMart II, Inc.; Comments of Paging Network, Inc.; Comments of Paging Partners Corporation; Comments of the Personal Communications Industry Association; Comments of Southwestern Bell Mobile Systems, Inc.; and Comments of TeleComm Systems, Inc.

^{2/} See Comments of CellPage, p. 7; Comments of GTE, p. 6; Comments of McCaw, n. 6.; Comments of Metrocall, p. 7; Comments of Metropolitan Houston Paging, p. 3; Comments of NABER, p. 3; Comments of PageMart, pp. 2-3.

should not limit the elimination of Section 22.119 to specific circumstances.

3. Because of the unanimity of support, no useful purpose would be served by reiterating in this reply all of the reasons cited by the commenting parties in support of the proposed change. However, a few commenters did suggest minor additions to or variations on the Commission's proposal which are the subject of this reply.

4. CellPage and Metrocall submit in their comments that the reasons supporting deletion of Section 22.119 of the Commission's rules also support the deletion of Section 90.415(b) of the rules which prohibits rendering a common carrier service on stations license under Part 90.^{3/} AirTouch and Arch agree that 90.415(b) makes little sense for those Part 90 services that have been defined as Commercial Mobile Radio Service ("CMRS"). Consequently, AirTouch and Arch support the proposed revision of 90.415(b) as applied in the CMRS, either in this proceeding or in the regulatory treatment proceeding^{4/}

5. GTE Service Corporation in its comments supports the elimination of Section 22.119 in all exclusive use services such as paging, but believes the Commission should adopt certain safeguards that would apply to those

^{3/} CellPage Comments, pp. 4-5; Metrocall Comments, pp. 4-5.

^{4/} See Regulatory Treatment of Mobile Services, GN Docket No. 93-252.

operating on frequencies that are shared with others, such as air-ground service.^{5/} AirTouch and Arch believe that GTE's concern is based upon an overly broad reading of the proposed change. In the view of AirTouch and Arch, the proposed deletion of Section 22.119 of the Commission's rules would not authorize any licensee of a shared frequency to devote that frequency to non-common carriage uses outside of the scope of permissible uses set forth in the rules. Thus, the deletion of Section 22.119 would not authorize an air-ground radiotelephone service licensee to devote a working air-ground channel in the 454 MHz band to alternate services. It would, however, permit the air-ground carrier to utilize a multiple frequency UHF transmitter which transmitted on both the 454 MHz air-ground channel and another UHF channel licensed under Part 90. A use of this nature would not preempt more time on the shared air-ground channel, which appears to be GTE's concern.

6. Message Center Beepers ("Message Center") supports the elimination of Section 22.119 with a caveat that making technical provision for 929 MHz paging capability in a 931 MHz common carrier system should not count toward the establishment of exclusivity on the 929 MHz PCP channels. AirTouch and Arch have several concerns about this Message Center proposal.^{6/}

^{5/} GTE Comments, pp. 4-6.

^{6/} Message Center Comments, pp. 1-3.

7. As the Commission is aware, both AirTouch and Arch have filed waiver requests with the Commission seeking a transition period to convert from the use of multiple-frequency transmitters to dedicated transmitters under newly adopted Section 90.495(a)(5) of the Commission's rules.^{7/} The waivers, if granted, would allow AirTouch and Arch each to construct PCP exclusivity systems that meet the geographic and transmitter count requirements using multiple-frequency transmitters, and to convert these systems to dedicated transmitters over time. AirTouch and Arch see absolutely no reason that they should be precluded in the initial configurations of their systems from using dual frequency transmitters that operate both Part 22 and Part 90 facilities. However, the broad prohibition requested by Message Center calls into question this configuration.

8. The limitation proposed by Message Center also is overly broad because it fails to take into consideration the possibility that a carrier could first construct its PCP facility and later add a common carrier frequency to the transmitter. In this deployment, the PCP operator will in fact have made a "significant capital investment" in the course of building out its PCP system

^{7/} See Request of PacTel Paging (now AirTouch Paging) for a waiver of Section 90.495(a)(5) filed December 23, 1993; Request for Waiver of Arch Communications Group filed January 27, 1994.

which means that the transmitter should be counted toward the PCP exclusivity totals even if a common carrier channel is added at a later date.^{8/}

9. AirTouch and Arch also believe that the restriction proposed by Message Center misperceives the purpose of Section 90.495 of the Commission's rules that prohibits the repeated counting of the same transmitter in PCP services. The express purpose of the limitation was to preclude PCP carriers from claiming exclusivity on multiple PCP channels with no more investment than is required to earn single-channel exclusivity.^{9/} Allowing common carrier paging service providers to meet PCP exclusivity construction requirements by adding PCP frequencies to existing common carrier transmitters would, at most, allow a carrier to count that transmitter toward a single PCP exclusivity request and not multiple requests. Consequently, the concern being addressed by the PCP multiple counting rule would not be defeated in this instance.

10. On balance, AirTouch and Arch believe that the restriction proposed by Message Center is unnecessary

^{8/} The Commission should avoid micromanaging the spectrum in a manner that would dictate the order in which systems must be built out. Such a rule would be hard to police, and would interfere with the normal market forces that should govern construction time tables.

^{9/} Report and Order, 8 FCC Rcd. 8318, 8323-24 (1993).

and would reduce the flexibility the carriers require as they are constructing large wide-area systems.

11. TeleComm Systems, Inc. in its comments correctly notes that the scope of permissible uses of multiple-frequency transmitters under Part 22 is unclear. TeleComm points out that it would be unfair for the Commission to delete Section 22.119, thereby enabling carriers to share a multiple-frequency transmitter between Parts 90 and 22, if the use of the same frequency-agile transmitter strictly for Part 22 services still could raise rule compliance questions.^{10/} AirTouch and Arch, in the course of the *Part 22 Rewrite* proceeding^{11/} have strongly advocated the elimination of any restrictions on the use of frequency-agile transmitters under Part 22 of the rules. Consequently, AirTouch and Arch support the clarification requested by TeleComm Systems, either in this proceeding or in the *Part 22 Rewrite* proceeding.^{12/}

^{10/} TeleComm Comments, Section II.

^{11/} See Revision of Part 22 of the Commission's Rules, CC Docket No. 92-115.

^{12/} AirTouch and Arch agree with TeleComm that the clarification should be issued sooner rather than later.

12. The foregoing premises having been duly considered, AirTouch Paging and Arch Communications Group respectfully submit that the Commission should proceed with the complete elimination of Section 22.119 of its rules as proposed in the NPRM.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I, Tana Christine Maples, hereby certify that I have this 26th day of July, 1994, caused copies of the foregoing **Joint Reply Comments of AirTouch Paging and Arch Communications Group** to be delivered by hand, courier charges prepaid, or by first class United States mail, postage prepaid to the following:

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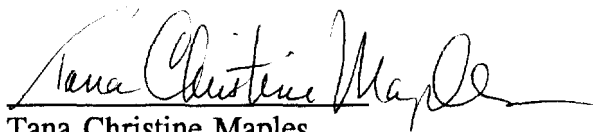
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